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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

D.B.,

Petitioner,

v.

THE SUPERIOR COURT OF
VENTURA COUNTY,

Respondent;

HUMAN SERVICES AGENCY,

Real Party in Interest.

2d Civil No. B268071
(Super. Ct. No. J070064)
(Ventura County)

D.B., the biological mother of C.W., seeks an extraordinary writ to vacate the October 29, 2015 order of the juvenile court setting a permanent planning hearing pursuant to Welfare and Institutions Code section 366.26.¹ We summarily deny the petition because it fails to comply with the requirements of California Rules of Court, rule 8.452.

Factual and Procedural Background

On June 25, 2014, five-year-old C.B. was detained after mother tested positive for methamphetamine, opiates and ecstasy, and was arrested for violating probation.

On June 27, 2014, Ventura County Human Services Agency (HSA) filed a petition for failure to protect (§ 300, subd. (b)), no provision for support (§ 300, subd. (g)), and abuse of a sibling (§ 300, subd. (j).) The petition alleged that C.B.'s half-sister, Alyssa

¹ All further statutory references are to the Welfare and Institutions Code.

B., was declared a dependent of the court in 2007 due to mother's substance abuse and that the dependency was dismissed after services were offered and mother reunified with the child. HSA reported that mother was diagnosed with Bi-Polar disorder, anxiety disorder, ADHD, and PTSD, and had a history of substance of abuse resulting in arrests for possession of a control substance, possession for sale, being under the influence of a controlled substance, and perjury and battery. Based on mother's drug relapse and probation violation, mother was sentenced to five years state prison. C.B.'s biological father, David W., had a history of substance abuse and drug related criminal convictions, and his whereabouts was unknown.

On December 3, 2014, at a contested jurisdiction/disposition hearing, the trial court sustained the petition, and ordered services and supervised visits. HSA placed C.B. with his maternal half sister, Alyssa B. At the 12-month review hearing, the trial court terminated services and set the matter for a section 366.26 permanent planning hearing to establish a legal guardianship with the maternal half sister.

On December 22, 2015, mother filed a petition for extraordinary writ to vacate the section 366.26 hearing and to reinstate services. The petition states that mother is imprisoned at the Central California Women's Facility in Chowchilla and is scheduled to be released in approximately 60 days.

Discussion

HSA requests that the petition be dismissed because it fails to comply with California Rules of Court, rule 8.452.² Rule 8.452(b)(1) requires that the petition be accompanied by a memorandum that provides a summary of the significant facts with supporting references to the record. "The memorandum must state each point under a separate heading or subheading summarizing the point and support each point by argument and citation of authority." (Rule 8.452(b)(2).) The memorandum "must, at a minimum, adequately inform the court of the issues presented, point out the factual support for them in the record, and offer argument and authorities that will assist the

² We treat HSA's motion to dismiss as an answer to mother's petition. All further references to rules are to the California Rules of Court.

court in resolving the contested issues." (*Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570, 583 [court received "utterly deficient" petition].)

Mother's petition does not have a memorandum or a summary of the significant facts with supporting references to the record. (Rule 8.452(b)(1)-(b)(2).) Nor does it offer argument and authorities that will assist the court in resolving the contested issues. (*Glen C. v. Superior Court, supra*, 78 Cal.App.4th at p. 583.)

"Absent exceptional circumstances, the reviewing court must decide the petition on the merits by written opinion." (Rule 8.452(h)(1).)

Mother's failure to comply with rule 8.452 constitutes exceptional circumstances justifying the summary denial of her petition. "Because of the intolerable burden that would otherwise be foisted on the Courts of Appeal, we deem the failure to tender and substantively to address a specific material issue or issues or to furnish an adequate record to be 'exceptional circumstances' . . . which excuse the court from reviewing and determining a petition on the merits." (*Joyce G. v. Superior Court* (1995) 38 Cal.App.4th 1501, 1512; see *Anthony D. v. Superior Court* (1998) 63 Cal.App.4th 149, 157 [where petition fails to meet the "threshold requirements," it should be summarily denied].)

We summarily deny the petition for extraordinary writ.

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YEGAN, J.

We concur:

GILBERT, P.J.

PERREN, J.

Tari L. Cody, Judge
Superior Court County of Ventura

D.B., Petitioner, In Propria Persona.

Leroy Smith, County Counsel, Michael G. Walker, Chief Assistant, Linda L.
Stevenson, Assistant County Counsel, for Real party in Interest.